

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**ISMAIL N. SMITH,**

**Plaintiff,**

**v.**

**9:08-CV-1364**

**COMMISSIONER GOORD; C.O. MATRESE, Correctional Officer, Cossackie Correctional Facility; RANZE, Cossackie Correctional Facility; BOGARDUS, Correctional Officer, Cossackie Correctional Facility; MICHAUD, Correctional Officer, Cossackie Correctional Facility; NOETH, Cossackie Correctional Facility; JOHN DOE, Keeplock C.O., Cossackie Correctional Facility, from F-2 on 9/12/07; SPERRY, Nurse, Cossackie Correctional Facility; JOHN DOE, Physical Therapist from 8/7/08, Cossackie Correctional Facility; JOHN DOE, Deputy Commissioner of Programs, DOCS; JOHN DOE, Deputy Commissioner of Facilities; MURZDA, Correctional Officer, Cossackie Correctional Facility; McDERMOT, Lt., Cossackie Correctional Facility; RIVERA, Superintendent, Cossackie Correctional Facility; MONTUSELLO,<sup>1</sup> Deputy Superintendent of Security; A. MTAMBU, Nurse**

**Defendants.**

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**APPEARANCES:**

**OF COUNSEL:**

ISMAIL N. SMITH  
781 E. 135 St.  
Bronx, NY 10454  
Plaintiff, *pro se*

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<sup>1</sup>The correct spelling of Defendant Montusello's name appears to be "Martuscello." *See* Dkt. No. 48, Acknowledgment of Serv., dated Aug. 4, 2009. We shall refer to him using the correct spelling of his name.

HON. ANDREW M. CUOMO  
Attorney General for the State of New York  
The Capitol  
Albany, NY 12224  
Attorney for Defendants

AARON M. BALDWIN, ESQ.  
Assistant Attorney General

**NORMAN A. MORDUE, CHIEF U. S. DISTRICT JUDGE**

**ORDER**

The above matter comes to me following a Report-Recommendation by Magistrate Judge Randolph E. Treece, duly filed on the 9<sup>th</sup> day of August 2010. Following ten days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. The Clerk of the Court shall serve a copy of this Order upon all parties and the Magistrate Judge assigned to this case.

**IT IS SO ORDERED.**

Dated: August 30, 2010  
Syracuse, New York

  
Norman A. Mordue  
Chief United States District Court Judge